

SENATE BILL 2265

By Kyle

AN ACT to amend Tennessee Code Annotated, Section 63-1-117, relative to the inspection of medical records by the department of health.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 63-1-117, is amended by deleting the language in its entirety and substituting instead the following language:

(a) Notwithstanding the provisions of §§ 63-2-101(b), 68-11-1502, and 68-11-1503, and regardless of any express or implied contracts, agreements, or covenants of confidentiality based upon those sections, health care providers shall make their medical records available for inspection and copying by the department of health, or its representative(s), designee(s), or employee(s) based on the following conditions:

(1) Upon the presentation of a written authorization for release signed by the patient or the patient's legal representative; or

(2) Upon a written request made by the department of health investigators, inspectors, or surveyors who are performing authorized investigations, inspections, or surveys of facilities or individuals licensed pursuant to Title 63 or Title 68 based on a complaint filed with the department or an inspection or survey required by state or federal law. The written request shall contain the nature of the violation; the applicable laws and rules that may have been violated; and the specific date by which production of the records is required. The written request shall be made in good faith and shall be related to the complaint, inspection, or survey.

(b) This section shall not apply to records that are made statutorily privileged, which shall require for their production a release that specifically identifies the privilege, contains a statement that the privilege is waived, and that is signed by the patient or the patient's legal representative.

(c) Any health care provider or representative of any health care provider who furnishes records to a duly authorized representative, designee, or employee of the department of health shall be immune from liability to any patient, individual, or organization for furnishing such information, data, reports, or records, or for damages resulting from any decision, opinion, action, and proceedings rendered, entered, or acted upon by the department of health, if the information or other records or documents provided were provided or created in good faith and without malice and on the basis of facts reasonably known or reasonably believed to exist.

(d) In the event that a health care provider does not comply with the written request for medical records issued in compliance with subparagraph (a)(2), the state may file a petition in the chancery court of Davidson County to compel production of the medical records within fifteen (15) days following the date specified for the production of the medical records contained in the written request.

(e) A health care provider's willful disregard of the request for medical records pursuant to this section is grounds for disciplinary action by the licensing board that regulates the health care provider.

(f) The following materials, documents, and other matters related to, compiled or created pursuant to an investigation, inspection, or survey conducted by department investigators, inspectors, or surveyors shall not be a public record before formal disciplinary charges are filed against the provider:

(1) Allegations against the health care provider;

- (2) Complainant's identifying information;
- (3) Identifying information of a witness who requests anonymity;
- (4) Patient's identifying information;
- (5) Patient's medical record; and
- (6) Investigator's/inspector's/surveyor's report.

(g) After the filing of formal disciplinary charges against the provider, only the materials and documents upon which the charges are based may be disclosed as a public record, but not the complainant's identifying information; identifying information of a witness who requests anonymity; patient's identifying information; patient's medical record; and investigator's, inspector's, and surveyor's report.

(h) This section does not modify or limit the prehearing discovery provisions set forth in the Uniform Administrative Procedures Act, codified in title 4, chapter 5, part 3.

(i) The term "health care provider" as used in this section shall mean health care professionals, establishments, or facilities licensed, registered, certified or permitted pursuant to title 63 or title 68 and regulated either under the authority of the department of health or any agency, board, council, or committee attached to the department.

(j) The term "medical record" as used in this section shall mean any and all documents maintained by a health care provider relating to a patient's diagnosis, care, and treatment, including, but not limited to the following: notes, reports, memos, emails, facsimile transmissions, laboratory tests, billing documents, and medication orders.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring

it.